



February 28, 2014

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# ENGROSSED HOUSE BILL No. 1162

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DIGEST OF HB 1162 (Updated February 27, 2014 11:51 am - DI 84)

**Citations Affected:** IC 8-1.

**Synopsis:** Certificates of need for utilities. Requires the utility regulatory commission to make additional findings before granting a certificate of public convenience and necessity to an applicant that proposes to construct a facility with a generating capacity of more than 80 megawatts.

**Effective:** July 1, 2014.

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## Braun, Koch, Negele

(SENATE SPONSORS — MERRITT, LEISING, RANDOLPH)

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January 13, 2014, read first time and referred to Committee on Utilities and Energy.  
January 28, 2014, amended, reported — Do Pass.  
January 30, 2014, read second time, ordered engrossed. Engrossed.  
February 3, 2014, read third time, passed. Yeas 95, nays 0.

SENATE ACTION

February 10, 2014, read first time and referred to Committee on Utilities.  
February 27, 2014, reported favorably — Do Pass.

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EH 1162—LS 6921/DI 103





February 28, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1162

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 8-1-8.5-5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) As a condition for  
3 receiving the certificate required under section 2 of this chapter, the  
4 applicant shall file an estimate of construction, purchase, or lease costs  
5 in such detail as the commission may require.  
6 (b) The commission shall hold a public hearing on each such  
7 application. **The commission may consider all relevant information**  
8 **related to construction, purchase, or lease costs.** A certificate shall  
9 be granted only if the commission has:  
10 (1) made a finding as to the best estimate of construction,  
11 purchase, or lease costs based on the evidence of record;  
12 (2) made a finding that either:  
13 (A) the construction, purchase, or lease will be consistent with  
14 the commission's plan (or such part of the plan as may then be  
15 developed, if any) for expansion of electric generating  
16 capacity; or

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(B) the construction, purchase, or lease is consistent with a utility specific proposal submitted under section 3(e) of this chapter and approved under subsection (d). However, if the commission has developed, in whole or in part, a plan for the expansion of electric generating capacity and the applicant has filed and the commission has approved under subsection (d) a utility specific proposal submitted under section 3(e) of this chapter, the commission shall make a finding under this clause that the construction, purchase, or lease is consistent with the commission's plan, to the extent developed, and that the construction, purchase, or lease is consistent with the applicant's plan under section 3(e) of this chapter, to the extent the plan was approved by the commission;

(3) made a finding that the public convenience and necessity require or will require the construction, purchase, or lease of the facility; ~~and~~

(4) made a finding that the facility, if it is a coal-consuming facility, utilizes Indiana coal or is justified, because of economic considerations or governmental requirements, in using non-Indiana coal; ~~and~~

**(5) made the findings under subsection (e), if applicable.**

(c) If:

(1) the commission grants a certificate under this chapter based upon a finding under subsection (b)(2) that the construction, purchase, or lease of a generating facility is consistent with the commission's plan for the expansion of electric generating capacity; and

(2) a court finally determines that the commission plan is invalid; the certificate shall remain in full force and effect if the certificate was also based upon a finding under subsection (b)(2) that the construction, purchase, or lease of the facility was consistent with a utility specific plan submitted under section 3(e) of this chapter and approved under subsection (d).

(d) The commission shall consider and approve, in whole or in part, or disapprove a utility specific proposal or an amendment thereto jointly with an application for a certificate under this chapter. However, such an approval or disapproval shall be solely for the purpose of acting upon the pending certificate for the construction, purchase, or lease of a facility for the generation of electricity.

**(e) This subsection applies if an applicant proposes to construct a facility with a generating capacity of more than eighty (80) megawatts. Before granting a certificate to the applicant, the**



1       **commission:**  
2               **(1) must, in addition to the findings required under subsection**  
3               **(b), find that the estimated costs of the proposed facility are,**  
4               **to the extent commercially practicable, the result of**  
5               **competitively bid engineering, procurement, or construction**  
6               **contracts, as applicable; and**  
7               **(2) shall also consider the following factors:**  
8                       **(A) Reliability.**  
9                       **(B) Solicitation by the applicant of competitive bids to**  
10                      **obtain purchased power capacity and energy from**  
11                      **alternative suppliers.**  
12       **The applicant, including an affiliate of the applicant, may**  
13       **participate in competitive bidding described in this subsection.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities and Energy, to which was referred House Bill 1162, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1162 as introduced.)

KOCH, Chair

Committee Vote: yeas 7, nays 2.

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COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred House Bill No. 1162, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB 1162 as printed January 28, 2014.)

Committee Vote: Yeas 9, Nays 1

Senator Merritt, Chairperson

